



Nez Perce

IBAL EXECUTIVE COMMITTEE
P.O. BOX 305 • LAPWAI, IDAHO 83540 • (208) 843-2258

February 7, 2007

Chairman Hogen & Members
National Indian Gaming Commission
440 L Street, N.W. - 10th Floor
Washington, D.C. 20005
Fax: (202) 632-7066

Dear Chairman Hogen & Members of the Commission:

It has come to the attention of the Nez Perce Tribe that the Commission is considering significant revisions to the proposed Class II technical standards based on the recommendations of an ad hoc working group of game machine manufacturers which have developed a set of proposed revisions to the proposed rule. The Nez Perce Tribe has also been informed that the NIGC may decide not to issue the classification standards and issue only technical standards regulations. Tribal governments should have an opportunity to comment on any significant amendments prior to the promulgation of any final rule on technical standards.

The Nez Perce Tribe has been informed that the manufacturers were able to achieve substantial consensus in developing the recommendations, which is encouraging. Nevertheless, tribal governments must have a chance to comment on any significant amendments. At present, the Nez Perce Tribe is not clear as to the Commission's actual plans in relation to these rulemaking activities. Under the circumstances, the Nez Perce Tribe will address both contingencies. If the Commission plans to proceed with both classification and technical standards regulations, it is essential that tribal governments have a full and fair opportunity to review both sets of regulations and offer additional comments, particularly since the two proposed rules are so closely related. If the NIGC plans only to proceed with technical standards, it is essential that tribal governments have a full and fair opportunity to review and comment on the final proposal.

While the Nez Perce Tribe is hopeful that the Commission's decision to allow the manufacturer's an opportunity for input produced worthwhile results that will ultimately accrue to the benefit of tribal governments, the Commission's ultimate responsibility is to carry out its mission on a government-to-government basis with representatives of tribal governments. Moreover, it is not at all unusual for federal agencies to publish multiple versions of the same proposed rule, particularly in rulemakings affecting substantial

ights or economic impacts. In this case, both circumstances are present. In this situation, due process and the APA "logical outgrowth" rule weigh in favor of the NIGC's publication of the technical standards for further comment after they are amended.

Sincerely,

Rebecca A. Miles
Rebecca A. Miles
Chairman

cc:

NIEZ PERCE
TRIBAL EXECUTIVE COMMITTEE
P.O. Box 305
Lapwai, Idaho 83540

FAX TRANSMISSION SHEET

DATE: February 7, 2007

TOTAL NO. OF PAGES
(including cover sheet)

To:
Chairman Eugene & Members
National Indian Gaming Commission

FAX #:
(202) 632-7105

cc:

From: Rebecca A. Miles, Chairman

**I YOU DO NOT RECEIVE ALL THE PAGES OR HAVE ANY PROBLEMS,
PLEASE CALL Lori Picard at (208) 243-7900.**

REMARKS: The information contained in this FAX is CONFIDENTIAL AND/OR PRIVILEGED. This fax is intended to be reviewed initially by only the individual(s) named above. If the reader of this transmittal page is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination or copy of this fax in error, please immediately notify the sender by telephone and return this fax to the sender at the above address. Thank you.